

SENATE BILL NO. 467

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CHILD CARE LAWS; PROVIDING LEGISLATIVE INTENT; PROVIDING THAT INFORMATION ABOUT CHILDREN MAINTAINED BY A CHILD CARE LICENSEE OR REGISTRANT BE KEPT CONFIDENTIAL; REMOVING REQUIREMENTS FOR A LOCAL PUBLIC HEALTH AUTHORITY TO PERFORM CERTAIN INSPECTIONS AND PROVIDE CERTAIN TRAININGS; AMENDING SECTIONS 52-2-702, 52-2-703, 52-2-722, 52-2-723, 52-2-725, 52-2-731, 52-2-732, 52-2-735, AND 52-2-737, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 52-2-702, MCA, is amended to read:

"52-2-702. Purpose -- findings -- legislative intent. (1) The purpose of this part is to ~~assure~~ensure that children requiring day care be provided ~~such~~the food, shelter, security and safety, guidance and direction, nurture and comfort, and learning experiences commensurate to their ages and capabilities so as to safeguard the growth and development of ~~such~~the children, thereby facilitating their proper physical and emotional maturation.

(2) (a) The legislature finds that the number of children living in homes where both parents work or in homes with a single parent who works has increased dramatically over the last decade.

(b) The legislature finds that the availability of quality child care is critical to the self-sufficiency and independence of Montana families, including the growing number of mothers who have young children and who work out of economic necessity.

(c) The legislature further finds that the number of quality child-care arrangements falls far short of the number required for children in need of child-care services.

(d) It is the intent of the legislature that the state promote day care for the purposes of:

(i) improving the quality of, and coordination among, child-care programs and providing additional resources for child-care services;

(ii) promoting the availability and diversity of quality child-care services for all children and families that need such services;

(iii) providing assistance to families whose financial resources are not sufficient to enable them to pay the full costs of necessary child-care services;

(iv) ensuring that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child-care facility; and

(v) assisting people in finding and maintaining employment by lessening the stress related to the lack of adequate child care.

(e) It is the intent of the legislature that nothing in this part may be construed or applied to usurp or infringe on the moral and legal rights and responsibilities of parents.

Section 2. Section 52-2-703, MCA, is amended to read:

"52-2-703. Definitions. In this part, the following definitions apply:

(1) "Child" means a person under 13 years of age or a person with special needs, ~~as defined by the department, who is under 18 years of age or is 18 years of age and a full-time student expected to complete an educational program by~~ who is under 19 years of age and is physically or mentally incapable of independent self-care.

(2) "Day care" or "child care" means care for children provided by an adult, other than a parent of the children or other person living with the children as a parent, on a regular or irregular basis, as applicable, for daily periods of less than 24 hours, whether that care is for daytime or nighttime hours.

(3) (a) "Day-care center" means an out-of-home place in which day care is provided to 16 or more children on a regular or irregular basis.

(b) The term does not include a place where day care is provided if a parent of a child for whom day care is provided remains on the premises.

(4) "Day-care facility" means a person, association, or place, incorporated or unincorporated, that provides day care on a regular basis or a place licensed or registered to provide day care on an irregular basis, as provided for in subsection (3)(a), or for children suffering from illness. The term includes a family day-care home, a day-care center, a group day-care home, or a facility providing care in a child's home for the purpose

1 of meeting registration requirements for the receipt of payments as provided in 52-2-713. The term does not
2 include:

3 (a) a person who limits care to children who are related to the person by blood or marriage or
4 under the person's legal guardianship, unless registration or licensure as a day-care facility is required to
5 receive payments as provided in 52-2-713; or

6 (b) any group facility established chiefly for educational purposes that limits its services to children
7 who are 3 years of age or older.

8 (5) "Department" means the department of public health and human services provided for in 2-15-
9 2201.

10 (6) "Family day-care home" means a private residence in which day care is provided to three to
11 eight children on a regular basis.

12 (7) "Family, friend, or neighbor provider" means a child-care provider who provides regular care for
13 no more than six children from separate families or all children from a sibling group and who opts to be
14 registered.

15 (7) (8) "Group day-care home" means a private residence or other structure in which day care is
16 provided to 9 to 15 children on a regular basis.

17 (8) (9) "License" means a written document issued by the department that the license holder has
18 complied with this part and the applicable standards and rules for day-care centers.

19 (9) (10) "Licensee" means the holder of a license issued by the department in accordance with the
20 provisions of this part.

21 (11) "Parent" means a person who:

22 (a) is related to a child who is the son or daughter of the person by blood, marriage, or adoption;

23 (b) is a legal guardian of a child; or

24 (c) is standing in loco parentis to a child.

25 (10) (12) "Professional training" means training for early childhood or school-age care providers
26 that is recognized as professional development by a national education or certification organization or by a
27 higher education institution.

28 (14) (13) "Registrant" means the holder of a registration certificate issued by the department in

1 accordance with the provisions of this part.

2 ~~(12)~~ (14) "Registration" means the process whereby the department maintains a record of all
3 family day-care homes and group day-care homes, prescribes standards, promulgates rules, and requires the
4 operator of a family day-care home or a group day-care home to certify compliance with the prescribed
5 standards and promulgated rules.

6 ~~(13)~~ (15) "Registration certificate" means a written instrument issued by the department to
7 publicly document that the certificate holder has, in writing, certified to the department compliance with this part
8 and the applicable standards for family day-care homes and group day-care homes.

9 ~~(14)~~ (16) "Regular basis" means providing day care to children of separate families for any daily
10 periods of less than 24 hours and within 3 or more consecutive weeks.

11 ~~(15)~~ (17) (a) "Related by blood or marriage" means the status of a child who is the son,
12 daughter, brother, sister, first cousin, nephew, niece, or grandchild of a person providing child care.

13 (b) The term includes the status of a child described in subsection ~~(15)(a)~~ (17)(a) in a step or
14 adoptive relationship.

15 ~~(16)~~ (18) "School age" means a person who is at least 5 years of age and who is younger than
16 13 years of age or a person with special needs, as defined by the department, who is under 18 years of age or
17 is 18 years of age and a full-time student expected to complete an educational program by 19 years of age.

18 ~~(17)~~ (19) "School-age care" means an adult-supervised program that is provided for school-age
19 children during nonschool hours."

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21 **Section 3.** Section 52-2-722, MCA, is amended to read:

22 **"52-2-722. Application for a license or registration certificate.** (1) Application for a license or
23 registration certificate ~~shall~~ must be made to the department in the county in which the applicant lives on forms
24 prescribed by the department.

25 (2) Applications for a license or registration certificate by Indians residing on Indian reservations
26 ~~shall~~ must be made through the tribal governing body on forms prescribed by the department. Applications
27 made through a tribal governing body ~~shall~~ must be accompanied by a request by the tribal governing body that
28 the department investigate to determine whether a license or registration certificate should be granted.

(3) Within 30 days of receipt of the application, the department shall determine whether a license or registration certificate should be issued."

Section 4. Section 52-2-723, MCA, is amended to read:

"52-2-723. Requirements for licensure. (1) The department shall include in the minimum standards for day-care centers the following requirements:

(a) The applicant, the applicant's employees, and all those persons who will come in direct contact with the children are of good character and shall provide satisfactory results of a background check.

(b) The staff of the day-care facility is sufficient in number as provided by rule to provide adequate supervision and care of the children in the facility.

(c) Essential programs and practices carried on by the facility staff are developed and carried out with due regard for the protection of the health, safety, development, and well-being of the children.

(d) Applicant and staff are qualified by practical experience or education or training to give good care and treatment to the children.

(e) Intake records are kept on each child admitted for care.

(f) The applicant and staff limit admissions to the maximum number indicated on the current license.

(g) The applicant will arrange for the necessary precautions to guard against communicable diseases.

(h) Public liability insurance and fire insurance are currently in force for the protection of the operator, the staff, and the facility.

(i) The ages and numbers of children that may be cared for in a day-care facility are specified.

(2) It is the duty of the department or its authorized representative to assist applicants in meeting the minimum requirements."

Section 5. Section 52-2-725, MCA, is amended to read:

"52-2-725. Renewal license -- registration certificate. If a licensed or registered day-care facility desires to renew a license or registration certificate, the request for renewal shall must be made in writing, on

forms prescribed by the department, in the county in which the applicant lives, 30 days prior to the expiration of its license or registration certificate."

Section 6. Section 52-2-731, MCA, is amended to read:

"52-2-731. Standards for day care. (1) In developing standards, the department shall seek the advice and assistance of the legislature, the superintendent of public instruction, representatives of day-care facilities, specialists in child care, and representatives of parent groups who use the services of day-care facilities. The standards may pertain to:

(4) (a) character, suitability, and qualifications of an applicant and other persons directly responsible for the care of children;

(2) (b) the number of individuals or staff required for adequate supervision and care of children in day-care facilities;

(3) (c) child-care programs and practices necessary to ensure the health, safety, safety in transportation, development, and well-being of children;

(4) (d) adequate and appropriate admission policies;

(5) (e) adequacy of physical facilities and equipment;

(6) (f) general financial ability and competence of an applicant to provide necessary care for children and maintain prescribed standards;

(7) (g) the ages and numbers of children that may be cared for in a day-care facility.

(2) Administrative rules adopted by the department pursuant to the rulemaking authority granted under this part must comply with the provisions of this part and may not be more stringent than the requirements provided by law in this part."

Section 7. Section 52-2-732, MCA, is amended to read:

"52-2-732. Licensees or registrants to maintain records, furnish reports, and permit inspections. It shall be the duty of every applicant for a license or for registration and every licensee or registrant to give the right of entrance to and inspection of premises to representatives of the department at reasonable times, to keep and maintain such records as the department may prescribe, to permit inspection of

1 these records, and to report to the department such facts as may be required on forms furnished by the
2 department. An applicant for a license or registration, a licensee, or a registrant shall give the department the
3 right to enter and inspect the premises at reasonable times and to inspect records. A licensee or registrant shall
4 keep and maintain records as required by the department and report facts as required on forms furnished by
5 the department. Information maintained by a licensee or registrant about the children in the care of the licensee
6 or registrant must be treated as confidential and may be reviewed by the department but may not be copied or
7 removed without a parent's written consent."

8
9 **Section 8.** Section 52-2-735, MCA, is amended to read:

10 **"52-2-735. Health protection -- ~~certification required~~ rulemaking.** (4) The department shall adopt
11 rules for the protection of children in day-care centers from the health hazards of inadequate food preparation,
12 poor nutrition, and communicable diseases. Rules adopted by the department must include rules requiring
13 children under 5 years of age to be immunized against Haemophilus influenza type "b" before being admitted
14 for care in the facility unless an exemption has been claimed as provided in 20-5-405.

15 (2) ~~Local public health authorities shall arrange to provide training to day-care center providers and~~
16 ~~employees regarding health hazards. Upon successful completion of the training the local public health~~
17 ~~authorities shall issue certificates to the providers and employees.~~

18 (3) ~~In lieu of training, local public health authorities may elect to inspect facilities and issue~~
19 ~~certificates of approval to child-care center providers.~~

20 (4) ~~Each applicant for a license to operate a day-care center shall submit to the department a~~
21 ~~certificate issued pursuant to subsection (2) or (3) before the department will issue a license.~~

22 (5) ~~The local public health authority may charge the applicant a reasonable fee, not to exceed \$25,~~
23 ~~for any inspection necessary to issue a certificate of approval, or a fee not to exceed the documented cost for~~
24 ~~training it provides under this section."~~

25
26 **Section 9.** Section 52-2-737, MCA, is amended to read:

27 **"52-2-737. Group day-care home -- staffing requirement.** There must be at least two caregivers
28 caring for the children at all times when there are more than eight children present at a group day-care home

1 except during periods of approved overlap care."

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3 NEW SECTION. **Section 10. Effective date.** [This act] is effective on passage and approval.

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